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PATENT

Case Docket No. K35A0614 (LQM 2462-2002/WESDIG.094A)
Date: October 18, 2004

In re application of	:	Scott T. Hughes
Appl. No.	:	09/585,129
Filed	:	May 31, 2000
For	:	SYSTEM AND METHOD OF RECEIVING ADVERTISEMENT CONTENT FROM ADVERTISERS AND DISTRIBUTING THE ADVERTISING CONTENT TO A NETWORK OF PERSONAL COMPUTERS
Examiner	:	Firmin Backer
Art Unit	:	3621

Certificate of Mailing

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October 18, 2004
(Date)

Bruce S. Itchkawitz, Reg. No. 47,677

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith in triplicate is:

(X) An Appellant's Reply Brief Pursuant to 37 C.F.R. § 1.193 to the Board of Patent Appeals in three (3) pages; and

(X) Two return prepaid postcards.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant	:	Scott T. Hughes
Appl. No.	:	09/585,129
Filed	:	May 31, 2000
For	:	SYSTEM AND METHOD OF RECEIVING ADVERTISEMENT CONTENT FROM ADVERTISERS AND DISTRIBUTING THE ADVERTISING CONTENT TO A NETWORK OF PERSONAL COMPUTERS
Examiner	:	Firmin Backer
Group Art Unit	:	3621

APPELLANT'S REPLY BRIEF PURSUANT TO 37 C.F.R. § 1.193

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant (Appellant herein) replies to the Examiner's Answer to "Appellant's Brief Pursuant to 37 C.F.R. § 1.192." The Examiner's Answer was dated September 10, 2004, so pursuant to 37 C.F.R. § 1.193(b)(1), the two-month deadline for filing this reply brief is Wednesday, November 10, 2004.

Appellant notes that, except for a correction of a single typographical error, Section (10) of the Examiner's Answer recites the identical grounds of rejection discussed in the September 17, 2003 Final Office Action. In addition, Appellant notes that Section (11) of the Examiner's Answer, entitled "Response to Argument" is identical to the section of the September 17, 2003 Final Office Action entitled "Response to Arguments." Appellant respectfully submits that by merely copying his previous grounds for rejection and response to arguments, the Examiner has not fully considered or addressed the arguments discussed in Appellant's Appeal Brief.

The Examiner still has not addressed the differences between the invention recited by Claims 1-10 of the present application and the cited prior art. Appellant has discussed these differences at length in the "Response to September 17, 2003 Final Office Action" as well as in "Appellant's Brief Pursuant to 37 C.F.R. § 1.192," both of which Appellant incorporates herein in their entireties.

For example, the present application recites a method in which personal computers display advertising content "while or before bootloading a user selected application environment" (emphasis added) in Claims 1-5, and a content delivery system in which "advertising data is formatted for storage and display in the network of personal computers while or before the network of personal computers bootload a selected application environment" (emphasis added) in Claims 6-10. In an attempt to find these limitations in the prior art, the Examiner merely cites Cottingham as teaching "an inventive concept wherein an advertisement (or advertising) may be communicated to a customer before the communication of a web-page or other information requested by the customer from a content provider." (Examiner's Answer, page 7, lines 13-16, emphasis added.) Appellant submits that Cottingham discloses presenting this advertising content while the user's computer is running an active Internet browser, which necessarily occurs after the user's computer has been bootloaded. Therefore, Cottingham is not properly relied upon to teach or suggest the limitations of Claims 1-10 that the Examiner acknowledges are not taught or suggested by Merriman.

As set forth above in Appellant's Appeal Brief, the final rejection of Claims 1-10 under 35 U.S.C. § 103(a) as being unpatentable over Merriman in view of Cottingham should be reversed. In particular, neither Merriman, Cottingham, nor any combination of these two references teaches or suggests a system or a method for displaying advertising information to a user before or during the bootload process of a computer.

Appellant respectfully submits that the claims pending in the present application are patentably distinguished over the cited prior art. Appellant respectfully requests that this Board overturn the Examiner's rejections and to remand this application to the Examiner with directions to pass all pending claims to allowance.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 10/18/04 By: _____

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